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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,550	07/16/2003	Bart ter Braak	09424.0190US01	8445
23552	7590	09/28/2007	EXAMINER	
MERCHANT & GOULD PC			FERGUSON, MICHAEL P	
P.O. BOX 2903			ART UNIT	
MINNEAPOLIS, MN 55402-0903			PAPER NUMBER	
			3679	
			MAIL DATE	DELIVERY MODE
			09/28/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/620,550	TER BRAAK, BART
	<b>Examiner</b>	<b>Art Unit</b>
	Michael P. Ferguson	3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 11 September 2007.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 3-17,20-23 and 26 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 3-12,14-17,20-23 and 26 is/are rejected.  
 7) Claim(s) 13 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 11 September 2007 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)                    4) Interview Summary (PTO-413)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                    Paper No(s)/Mail Date. \_\_\_\_\_.  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_                    5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 11, 2007 has been entered.

### ***Claim Objections***

2. Claims 3, 4, 15 and 17 are objected to because of the following informalities:

Claim 3 (lines 1-2) recites "the at least one resilient lip". It should recite --the resilient lip--.

Claim 4 (lines 1-2) recites "the at least one resilient lip". It should recite --the resilient lip--.

Claim 15 (lines 1-2) recites "the second retaining element". It should recite --the other retaining element--.

Claim 17 (line 4) recites "curtain runners". It should recite --curtain runners attached to said curtain--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

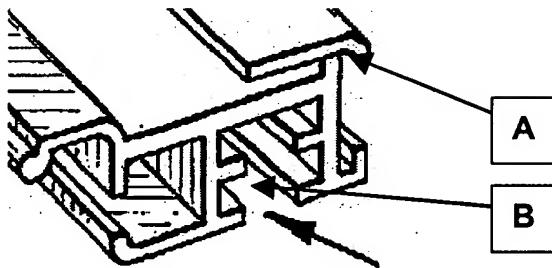
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 3, 4, 6-10, 17, 20-23 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Baker, Sr. (US 3,916,477).

As to claim 17, Baker, Sr. discloses a rail system, comprising:

a horizontally extending rail **12** to be suspended from a mounting surface, wherein the rail is configured to suspend a curtain **27** therefrom, the rail including a first groove **A** (Figure 1 reprinted below with annotations) and a second groove **B** configured to receive curtain runners attached to the curtain;

a safety connection coupled to the curtain rail, the safety connection comprising a first **14,17** and a second **16** retaining element, wherein after mounting, one of the retaining elements **14,17** is coupled to the rail to be suspended and the other of the retaining elements **16** is connected to the mounting surface, the first and second retaining elements being detachably connected to each other such that, under the influence of a tensile force applied to the retaining elements, the retaining elements disconnect, wherein the second retaining element integrally forms a resilient lip **50,51,58**, and wherein the first and second retaining elements are configured to cooperate via the integrally formed resilient lip to effect the detachable coupling of the retaining elements (Figures 1 and 6, column 2 lines 59-68).



As to claims 3 and 4, Baker, Sr. discloses a system wherein the resilient lip 58, after mounting, extends, on average, in a direction including an angle with a vertical plane in the range of approximately 15- 30 degrees (Figure 6).

As to claim 6, Baker, Sr. discloses a system wherein a front end of the resilient lip 58 of the second retaining element 16 touches a slide-off surface 62 of the first retaining element 14,17 (Figures 1 and 6).

As to claim 7, Baker, Sr. discloses a system wherein the front lip end 58 comprises a sliding surface which is substantially parallel to part of the slide-off surface 62 of the first retaining element 14,17 (Figure 6).

As to claims 8 and 9, Baker, Sr. discloses a system wherein the slide-off surface 62 of the first retaining element 14,17 after mounting, viewed in a vertical cross section, includes an angle with a vertical plane in the range of 60-70 degrees (Figure 6).

As to claim 10, Baker, Sr. discloses a system wherein the first retaining element 14,17, after mounting, extends partly through a substantially vertical passage of the second retaining element 16 (head 32 extends through a passage in bracket 16; Figures 1 and 6).

As to claim 20, Baker, Sr. discloses a system wherein the integrally formed resilient lip 50,51,58 comprises a radially outward extending resilient lip (Figure 6).

As to claim 21, Baker, Sr. discloses a system wherein the second retaining element **16** comprises a monolithic element defining the resilient lip **50,51,58** (Figure 6).

As to claim 22, Baker, Sr. discloses a system wherein the second retaining element **16** comprises a monolithic element defining the resilient lip **50,51,58** (Figure 6).

As to claim 23, Baker, Sr. discloses a system wherein the resilient lip **50,51,58** extends longitudinally beyond the first retaining element **14,17** and radially outward (Figure 6).

As to claim 26, Baker, Sr. discloses a system wherein the retaining element **16** coupled to the mounting surface is fixedly coupled to the mounting surface (Figure 1).

5. Claims 5-12, 14-17, 21, 23 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Bradley (US 5,957,612).

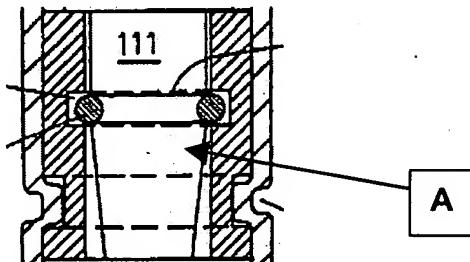
As to claim 17, Bradley discloses a rail system, comprising:  
a horizontally extending rail **1,104** to be suspended from a mounting surface, wherein the rail is configured to suspend a curtain **2** therefrom, the rail including a first groove **113**, and a second groove (not shown; column 3 lines 7-12) configured to receive curtain runners attached to the curtain;

a safety connection coupled to the curtain rail, the safety connection comprising a first **111** and a second **110** retaining element, wherein after mounting, one of the retaining elements **110** is coupled to the rail to be suspended and the other of the retaining elements **111** is connected to the mounting surface, the first and second retaining elements being detachably connected to each other such that, under the influence of a tensile force applied to the retaining elements, the retaining elements

disconnect, wherein the second retaining element integrally forms a resilient lip 110, and wherein the first and second retaining elements are configured to cooperate via the integrally formed resilient lip to effect the detachable coupling of the retaining elements (Figures 1 and 7, column 5 lines 50-54).

As to claim 5, Bradley discloses a system wherein the resilient lip 110 is manufactured from plastic (column 5 lines 50-54).

As to claim 6, Bradley discloses a system wherein a front end of the resilient lip 110 of the second retaining element 110 touches a slide-off surface A of the first retaining element 111 (Figure 7 reprinted below with annotations).



As to claim 7, Bradley discloses a system wherein the front lip end 110 comprises a sliding surface which is substantially parallel to part of the slide-off surface A of the first retaining element 111 (Figure 7).

As to claims 8 and 9, Bradley discloses a system wherein the slide-off surface A of the first retaining element 111 after mounting, viewed in a vertical cross section, includes an angle with a vertical plane in the range of 60-70 degrees (Figure 7).

As to claim 10, Bradley discloses a system wherein the first retaining element 111, after mounting, extends partly through a substantially vertical passage of the second retaining element 110 (Figure 7).

As to claim 11, Bradley discloses a system wherein the first retaining element 111 is provided with a widened head **A** located, after mounting, above the passage, which head touches the front end of the resilient lip 110 of the second retaining element 110 (Figure 7).

As to claim 12, Bradley discloses a system wherein the widened head **B** of the first retaining element 111 is provided with the slide-off surface (Figure 7).

As to claim 14, Bradley discloses a system wherein the first 111 and second 110 retaining elements are each of rotation-symmetrical design relative to an axis of symmetry, which is vertical, after mounting (Figure 7).

As to claims 15 and 16, Bradley discloses a system wherein the other retaining element 111 connected to the mounting surface is mounted in a tube 101 having an inside diameter in the range of 10- 15 mm (Figure 7, column 4 lines 48-54).

As to claim 21, Bradley discloses a system wherein the second retaining element 110 comprises a monolithic element defining the resilient lip 110 (Figure 7).

As to claim 23, Bradley discloses a system wherein the resilient lip 110 extends longitudinally beyond the first retaining element 111 and radially outward (Figure 7).

As to claim 26, Bradley discloses a system wherein the retaining element 111 coupled to the mounting surface is fixedly coupled to the mounting surface (Figure 1).

#### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baker, Sr.

As to claim 5, Baker, Sr. does not disclose any structural or functional significance as to the specific material of the second retaining element; the only functional material property of the second retaining element being that the second retaining element 16 increase the rigidity of first retaining element 14 (Figure 1, column 1 lines 30-37). Baker, Sr. fails to disclose a system wherein the resilient lip is manufactured from plastic.

The applicant is reminded that the selection of a known material based upon its suitability for the intended use, wherein there is no structural or functional significance disclosed as to the specific material of an element, is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system disclosed by Baker, Sr. wherein the resilient lip is manufactured from plastic, as Baker, Sr. does not disclose any structural or functional significance as to the specific material of the second retaining element, the only functional material property of the second retaining element being that the second retaining element increase the rigidity of first retaining element, and as such selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art.

***Allowable Subject Matter***

8. Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As to claim 13, Bradley discloses the claimed rail system with the exception of wherein the second retaining element comprises a plurality of resilient lips extending obliquely towards each other forming a constriction of the passage of the second retaining element.

There is no teaching or suggestion, absent the applicant's own disclosure, for one having ordinary skill in the art at the time the invention was made to modify the system disclosed by Bradley to have the above mentioned elemental features.

***Response to Arguments***

9. Applicant's arguments with respect to claims 3-17, 20-23 and 26 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (6:30am-3:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MPF  
09/25/07



**Michael P. Ferguson**  
Patent Examiner  
Technology Center 3600

## REPLACEMENT SHEET

Inventor: BRAAK  
Docket No.: 9424-1901US01  
Title: SAFETY CONNECTION INTENDED FOR SUSPENDING OBJECTS  
Serial No.: 10/620,550  
Sheet 1 of 2

FIG. 7

APPROVED.  
MPD  
9/25/07

